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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,323	12/01/2003	Lawrence B. Stone	SC45-009	3671
21567	7590	10/05/2006	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			LAUX, JESSICA L	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,323

Applicant(s)

STONE ET AL.

Examiner

Jessica Laux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15, 17, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species:

Species I – the embodiment disclosed in Figure 1

Species II – the embodiment disclosed in Figure 2.

The species are independent or distinct because species I requires the side plates to have tabs for attaching to the bottom plate while species II requires the bottom plate to have tabs for attaching to the side plates.

If applicant should elect Species I then a further species election requirement is as follows:

Species III – the cross section of Figure 4

Species IV - the cross section of Figure 5

Species V - the cross section of Figure 6

Species VI - the cross section of Figure 7

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

During a telephone conversation with Mr. Grigel on September 18, 2006 a provisional election was made without traverse to prosecute the invention of Species I with a further election of Species III. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-8, 16 and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-15, 17-18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by White (6094877).

Regarding claim 9: White disclose a structural member, comprising: a first portion (23) which is defined by a first curved peripheral edge (26); and a second portion (27) having a peripheral edge (30), and wherein a plurality of tabs (31) are disposed in angularly spaced relation along the peripheral edge of the second portion, and wherein at least one of the tabs is fastened to the first portion (Figure 2B; Col. 6, lines 57-61; Col. 7, lines 5-7), and wherein the plurality of tabs permit the second portion to be positioned, at least in part, along the first curved peripheral edge and deformed into a shape having a curvature which is substantially similar to the curved first peripheral edge of the first portion.

Regarding claim 10: A structural member as claimed in claim 9, and wherein the respective tabs are oriented in substantially perpendicular relation relative to the second portion (Col. 6, lines 57-61; Figures 2 A&B).

Regarding claim 11: A structural member as claimed in claim 9, and wherein the first portion defines a substantially centrally disposed web, and wherein the first portion is further defined by a second curved peripheral edge which is substantially parallel to the first curved peripheral edge (Figures 2 A&B; Col. 5, lines 50-55).

Regarding claims 12: A structural member as claimed in claim 11, and further comprising: a third portion (27') having a peripheral edge (30'), and wherein a plurality

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of tabs (31') are disposed in angularly spaced relation along the peripheral edge of the third portion, and wherein at least one of the tabs of the third portion is fastened to the first portion, and wherein the plurality of tabs permits the third portion to be positioned, at least in part, along the second curved peripheral edge of the first portion and deformed into a shape having a curvature which is substantially similar to the second curved peripheral edge (Figures 2A&B; Col. 6, lines 57-61; Col. 7, lines 5-7).

Regarding claim 13: White discloses a structural member which has a curved shape, comprising: first (23), second and third portions (27 and 27') which are joined together (Figure 2B; Col. 7, lines 5-7), and which define a channel, and wherein at least one of the first, second or third portions has a peripheral edge (30), and wherein a plurality of tabs (31) are made integral with the peripheral edge, and are disposed in spaced relation along the peripheral edge (Figures 2A&B where notches 28 space the tabs), and wherein at least one of the plurality of tabs is affixed to an adjacent portion.

Regarding claim 14: A structural member as claimed in claim 13, and wherein the plurality of tabs are spaced a predetermined distance apart (by notches 28), and wherein the respective tabs permit the portion having the tabs to be deformed into a curved shape (Col. 5, lines 19-24).

Regarding claim 15: A structural member as claimed in claim 13, and wherein at least two of the first, second and third portions each have a peripheral edge (30 and 30'), and wherein a plurality of tabs (31 and 31') are made integral with each of the peripheral edges, and are disposed in spaced relation along the respective peripheral edges, and wherein at least one of the plurality of tabs of each of the at least two

portions are affixed to the remaining portion, and wherein the respective tabs permit the portions, having the tabs, to be deformed into a curved shape (Col. 5, lines 19-24).

Regarding claim 17: A structural member as claimed in claim 13, and wherein at least one of the first, second or third portions is oriented in substantially perpendicular relation relative to an adjacent portion (Figures 2A&B, where 23 is perpendicular to 23).

Regarding claim 18: A structural member as claimed in claim 13, and wherein at least one of the first, second or third portions is oriented in a non perpendicular relationship relative to an adjacent portion (Figures 2A&B, where 27' is nonperpendicular to 27).

Regarding claim 20: A structural member having a curved shape, comprising: a first, centrally disposed web portion (23), and which has opposite first and second peripheral edges (26 and 26') and which has a curved shape; a second (27) and a third (27') portion each having opposite first (30) and second (30') peripheral edges, and a longitudinal axis, and wherein each of the second and third portions are deformable substantially along their respective longitudinal axes into a curved shape which is substantially similar to the curved shape of the first centrally disposed web portion (Col. 5, lines 19-24); and a plurality of tabs (31 and 31') made integral with each of the first peripheral edges of the respective second and third portions, and wherein the respective tabs are disposed in spaced relation along each of the first peripheral edges of the second and third portions and extend angularly outwardly relative thereto (where they are space by notches 28 and 28'; col. 6, lines 57-61), and wherein at least some of the tabs disposed along the first peripheral edge of the second portion are affixed to the

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first centrally disposed web (Col. 7, lines 5-7), and which positions the second portion in angulated juxtaposed relation relative to the first peripheral edge of the first, centrally disposed web portion, and wherein at least some of the tabs disposed along the first peripheral edge of the third portion are affixed to the first centrally disposed web, and which positions the second portion in angulated juxtaposed relation relative to the second peripheral edge of the first, centrally disposed web portion (Figures 2A&B).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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09/21/2006



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